

REMARKS

The subject Office Action rejects claims 1 – 44 as being based on a defective Declaration under 37 C.F.R. §1.175 for lack of assent of an assignee. Claims 3 – 44 are further rejected under 37 C.F.R. §1.175 based on a defective Specification. Claims 3 – 44 are further rejected under 35 U.S.C. §112 first paragraph for inadequate enablement. Claims 2, 18, 21 and 42 are further rejected under 35 USC §112 second paragraph for failing to clearly point out the subject matter of the invention claimed. Claim 2 is further rejected under 35 USC §102 (e) as unpatentable over the cited patent to Cameron et al. Claim 1 is further rejected under 35 U.S.C. §103(a) as unpatentable over the cited patent to Cameron et al in view of Shoquist et al. Claims 3 – 6, 8 – 13, 15, and 18 – 44 are also rejected under 35 U.S.C. §103(a) as unpatentable over the cited patent to Cameron et al in view of Taylor. Claims 7, 14 and 16 – 17 are further rejected under 35 U.S.C. §103(a) as unpatentable over the cited patent to Cameron et al. in view of Ginsburg.

For the reasons stated below, the applicant respectfully submits that the claims as amended are patentable over the cited prior art.

37 C.F.R. §1.172 requires that "A reissue oath or declaration...must be accompanied by the written assent of all assignees, if any..." (emphasis added). Please note that neither issued U.S. Patent No. 5,842,178 nor the present reissue application has been assigned. Since no assignee exists, no assent is required under the Rules. The rejection of claims 1 - 44 under this section is thus respectfully requested to be withdrawn.

In regard to the rejection of claims 3 – 44 as unpatentable under 35 U.S.C. §112,

¶1, it is respectfully submitted that the language of the specification complies with the pertinent legal requirements. First, the Examiner incorrectly characterizes as conjectural the applicant's use of phrases such as "e-mail *could be* configured as HTML pages," "hypertext links *can be* embedded in the quotation" and "the option *may be* to request that an email purchase order be sent" (emphasis added). First, the Examiner has misinterpreted these terms as being indefinite. It is submitted that the textual intent of the terms "could," "can" and "may" equates to "is able to" as a statement of positive ability, or as one way of accomplishing the invention, not dubious possibility. Secondly, according to M.P.E.P. §2164(a), the CAFC stated in *In re Wands*, 8 U.S.P.Q. 2d 1400 (Fed. Cir. 1988): "there was considerable direction and guidance in the specification" because "all of the methods needed to practice the invention were well known." It is to be noted that the creation of hypertext links and email requests were known in the art at the time of making the invention, thus requiring little explanation. Further, M.P.E.P. §2164(b) states: "[A]s long as the specification discloses at least one method for making and using the claimed invention that bears a reasonable correlation to the entire scope of the claim, then the enablement requirement of 35 U.S.C. 112 is satisfied (emphasis added).

Indeed, if applicant had stated "In one embodiment, hypertext links are embedded in the quotation," that would have given the same teaching without the words "could" or "can." Since such a teaching is well known, the use of "could" or "can" does not change the substance of the disclosure.

Other amendments have been presented to overcome the §112 rejections based upon missing antecedent bases. All rejections are now believed overcome.

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Thus, it is respectfully requested that the rejection on the basis of §112, be withdrawn. Therefore, at least claims 4 – 6, 8 – 13, 15, 18, 19, 21 – 30, 32 – 41, 43 and 44 are allowable, since they do not stand rejected under cited prior art.

In response to the rejection in the Office Action relating to 35 U.S.C. §102 and 35 U.S.C. §103, a brief discussion of the prior art cited in rejecting all independent claims is provided below.

U.S. Patent No. 5,832,459 to Cameron for a Computerized Source Searching System And Method For Use In An Order Entry System teaches a computer system for entry of orders by a telephone clerk in a catalog sales context. Cameron teaches a system for use in a catalog sales telephone operation in which the "user" is the clerk-receiver of the customer call (column 6, lines 26 – 29), and an "offer" is defined as an item offered by a source (i.e. a catalog) at a price (column 14, lines 51 – 52 and see Figures 18 - 20). Although Cameron states at column 6, lines 29 – 32 that the invention may be applied to other order entry devices, including cases in which "the user and the customer may be one and the same person," the functions performed are nonetheless distinct. Upon receipt of the customer's call, the user in the Cameron invention method is presented with a customer-identifying computer screen, and, based on the customer's requirements, the user locates offers (catalog items) for the desired item(s). Various screens are interlaced and provided on user demand for customer name, address, etc., customer payment record, preferred payment method, and shipping method. Cameron does not teach or suggest any method by which a buyer communicates a request for quotation (RFQ) to a "plurality of vendors" which

incorporates a "centralized filter means to match buyer and seller supplied information," and in response to which one or more vendors respond to the buyer directly.

U.S. Patent No. 5,361,199 to Shoquist et al. for an Automated Procurement System With Multi-System Data Access teaches a system for the creation and maintenance of purchase orders within a company through access to vendor and item data stored on a mainframe (column 1, line 64 – column 2, line 8; column 9, lines 62 – 63). The Shoquist et al. system manipulates and provides forms for item requisitions and resultant purchase orders (see Abstract). A requisition is entered into the system and requisitioned items are matched with vendors that are pre-listed in the mainframe database by item category. A vendor is chosen from the listing based on the information in the database, and a purchase order is written. Status reports of requisitions and purchase orders are generated in the system to provide current information to the buyer.

The Taylor reference, *Creating Cool Web Pages With HTML*, 2<sup>nd</sup> Edition, at pages 213 – 217, discusses the availability of several web-based directories. Page 214, particularly noted in the Office Action, describes an indexed commercial web site provided by Open Market that has the capability of searching 3,500 entities by business name.

Taylor simply discloses that HTML was available to those of skill in the art at the time the present application was filed. Taylor therefore shows that the §112 rejections should be withdrawn, but there is no suggestion in Taylor to use HTML links in combination with filtering means to facilitate an efficient ordering system by matching

buyers to sellers. Therefore, Taylor adds nothing to teach the claimed subject matter.

It is respectfully submitted that none of these prior art systems involves an interactive vendor-customer exchange or real bidding of item pricing. Thus the invention as claimed is not anticipated, nor obvious. The claim amendments described below respond to rejections under 35 U.S.C. §§ 112, 102 and 103.

Claim 2 has been amended to overcome the rejection under 35 U.S.C. §112, second paragraph, for lack of antecedent basis by deleting the definite article "the" before the term "centralized filter means." Claim 2, as amended, includes the limitation that the seller is chosen from "a plurality of sellers," in conformance with the specification and as distinctive over the Cameron et al. patent. Furthermore, claim 2 indicated in the original issued patent that the filter means is a centralized filter means, as discussed in the application from page 6, line 12 to line 60 and in Figure 2. Centralized filter means as disclosed in the application involves means for applying rules to both buyer and seller defined factors at a single location. Thus, it is believed that claim 2 is now in condition to be allowed.

Claim 3 has been amended hereby to more clearly and precisely claim the invention by adding thereto the limitation of "providing over said (computer) network a hypertext link containing page including information of each of a plurality of sellers offers" from which a buyer may select a single seller from whom to purchase. In contrast, the Cameron et al. reference is described to relate to a telephone operation of a catalog sales business, but not business-to-business transactions, nor are multiple sellers contacted and invited to make genuine offers to the buyer. Although Cameron et al. uses the

reference "offer," the "offer" in the present invention is conceptually different than a listing in a catalog. Thus, it is believed that claim 3 as amended distinguishes over all known prior art and is patentable. Therefore, dependent claims 4 – 17 and 19, being dependent from and incorporating the limitations of claim 3, are also allowable.

Claim 18 is amended hereby to correct the dependency to claim 17. This was merely a typographical error.

Amended claim 20 includes the limitations, not found or suggested in the cited references, of "providing over said computer communication network, from one or more sellers to said buyer..." and of the buyer "selecting one of said one or more sellers," neither being disclosed or suggested in any cited reference. Therefore, it is respectfully submitted that claim 20, and claims 21 – 30 dependent therefrom, are all patentable.

Claim 21 is amended hereby to correct the word "server" to read "seller," as noted by the Examiner. This was merely a typographical error.

Claim 31 has been amended to require that "a seller selected from a plurality of potential sellers," and "means for each of said plurality of potential sellers," which feature or suggestion is not found in the cited prior art. Amended claim 31 and dependent claims 32 – 40 are thus respectfully submitted to be allowable.

Claim 42 is amended hereby to correct the word "pace" to read "place." This was merely a typographical error. Further, claim 42 is stated as being patentable over cited art of Cameron et al. and Taylor by claiming "selecting a hypertext link indicative of a desire to [pace] **place** an electronic purchase order; in response to said step of selecting, transmitting at least one electronic purchase order to a seller; and in response to said

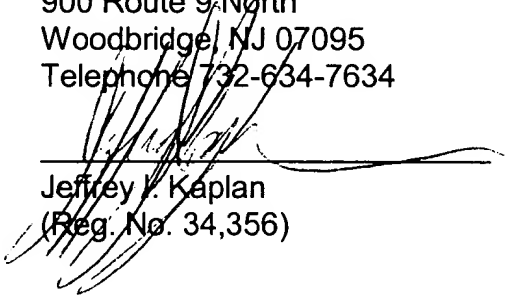
step of transmitting, providing credit information of the buyer maintained at said remote system to complete the purchase of said item." On the basis of the remarks above, it is respectfully submitted that neither of the cited references disclose or suggest the subject matter of this claim, which is believed to be distinct and patentable.

A set of amended claims 2, 3, 18, 20, 21, 31 and 42 is appended hereto in clean version.

In view of the foregoing amendment and remarks, it is respectfully submitted that all claims pending are allowable. Therefore, reconsideration and allowance are respectfully requested.

Respectfully submitted,

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